

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
NO. 5:17-CR-256-1H

UNITED STATES OF AMERICA,	)	
	)	
v.	)	
	)	
JAMEL ANTWAN DAVIS, a/k/a	)	ORDER
MEL,	)	
	)	
Defendant.	)	

This matter is before the court on defendant's motions to suppress. [DE #46, #47]. The government responded in opposition to the motions to suppress. The matter was referred to United States Magistrate Judge Kimberly A. Swank for entry of a memorandum and recommendation (M&R). The parties agree that the facts underlying defendant's motions are not sufficiently in dispute to warrant an evidentiary hearing. Therefore, Judge Swank entered an M&R on April 9, 2019, [DE #67], recommending denial of the motions. The defendant filed objections on May 15, 2019, along with a motion for leave to consider these objections outside the deadline. For good cause shown, the court grants the motion for leave and considers the objections herein.

Under Rule 59(b) of the Federal Rules of Criminal Procedure, a district judge must consider de novo any portion of the M&R to which objection is properly made.

Defendant objects to the M&R recommending denial of his motion to suppress, noting the following specific objections: (1) defendant objects to the court's finding that law enforcement officers had probable cause to conduct a warrantless search of Mr. Davis's car—after he was arrested while driving up the street from the house that was being searched and after law enforcement moved the car back to the house and (2) defendant objects to the court's finding that law enforcement was not required to re-Mirandize Mr. Davis at the beginning of his second custodial interview.

The court has conducted de novo review of each of the matters to which defendant objects. After careful consideration, the court finds the magistrate judge has made proper and correct findings and conclusions and finds the objections to be without merit.

This court, having conducted a de novo review of the M&R and other documents of record, finds the recommendations of the magistrate judge are in accordance with the law and should be approved.

Accordingly, the court hereby adopts the recommendations of the magistrate judge as its own; and, for the reasons stated

therein, the defendant's motions to suppress [DE #46, #47] are hereby DENIED. Defendant's request for leave [DE #71] is GRANTED.

This 20<sup>th</sup> day of May 2019.

  
\_\_\_\_\_  
Malcolm J. Howard  
Senior United States District Judge

At Greenville, NC  
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